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09/856,833	10/09/2001	Frank Goedicke	GK-BUE-102 / 5	4732

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EXAMINER

YOON, TAE H

ART UNIT

PAPER NUMBER

1714

DATE MAILED: 06/11/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/056,833

Applicant(s)

Goedicke et al

Examiner

T. Yoon

Group Art Unit

1914

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE THREE MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

☒ Responsive to communication(s) filed on 5-6-03 election

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

☒ Claim(s) 1-31 is/are pending in the application.

Of the above claim(s) 20-31 is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-19 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claim(s) _____ are subject to restriction or election requirement

Application Papers

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).

☒ All ☐ Some* ☐ None of the:

☐ Certified copies of the priority documents have been received.

☐ Certified copies of the priority documents have been received in Application No. _____.

☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____

Attachment(s)

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☒ Notice of Reference(s) Cited, PTO-892

☐ Notice of Informal Patent Application, PTO-152

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Other _____

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Applicant's election of Group I, claims 1-19, in Paper No. 10 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claims 4-19 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. A multiple dependent claim cannot depend from another multiple dependent claim.

The recited "preferably ---" in claim 14 is objected and a separate claim is suggested.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 16 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 16, the phrase "or the like" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "or the like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 5, 6, 8, 12 and 19 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over EP 0 336 520.

EP teaches the instant process at page 2, lines 30-53 and in example 1 wherein the second extruder meets the instant extruder (1). Polymer particles having a particle size lower than 2000 μm (page 3, lines 25-26) meet the instant powder. Polymer melt of EP can be passes through at least one melt pump (as in claim 12). Thus, the invention lacks novelty.

Claims 1-3, 5, 6, 8, 12 and 19 are rejected under 35 U.S.C. 103(a) as obvious over EP 0 336 520 and Rose et al (US 3,804,811).

The instant invention further recites flakes. However, the use of such flakes in recycling polyester materials is well known as taught by Rose et al, abstract and col. 2, lines 12-22.

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It would have been obvious to one of ordinary skill in the art at the time of the instant invention to utilize flakes of Rose et al in EP since both teach recycling polyester materials and since Rose et al teach both flakes and powders.

Claims 1-19 are rejected under 35 U.S.C. 103(a) as obvious over EP 0 336 520 and Nelson et al (US 5,597,891).

The instant invention further recites the use of an inert gas, melt filter and additives over EP. However, such practice is well known in the art as taught by Nelson et al, col. 4, lines 33-49 and col. 6, lines 34-63. Examples show a gas inlet system with a temperature higher than 150°C, however, said col. 6 teaches that said inert gas can be applied at ambient conditions or preferably heated to prevent cooling of the condensed polymer. Thus, choosing a temperature of the instant invention would be obvious.

It would have been obvious to one of ordinary skill in the art at the time of the instant invention to utilize an inert gas, melt filter and/or additives taught by Nelson et al in EP since such practice is well known in the art.

Claims 1-19 are rejected under 35 U.S.C. 103(a) as obvious over EP 0 336 520 and Nelson et al (US 5,597,891) and WO 98/40194.

WO teaches the use of a melt pump in recycling PET flakes.

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It would have been obvious to one of ordinary skill in the art at the time of the instant invention to further utilize a melt pump in EP and Nelson et al since the use of a a melt pump in an extrusion process in order to improve a flow if a melt is a well known.

Insertion of the continuing data at the beginning of the specification is suggested.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tae H. Yoon whose telephone number is (703) 308-2389. The examiner can normally be reached on Monday to Thursday from 8:00 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan, can be reached on (703) 306-2777. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9310.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

THY/June 9, 2003



**TAE H. YOON
PRIMARY EXAMINER**